

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
December 17, 2012 at 6:00 P.M.

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Terry Dayvolt, Acting Chairman; Tina Baxter, Judy Writsel, Mike Winge, and Jeff Willis.

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director; Molly MacGregor, Staff.

MEMBERS ABSENT: Don Mottley and Jeff Valiant.

MINUTES: Upon a motion made by Mike Winge and seconded by Tina Baxter, the minutes of the last regular meeting held November 26, 2012 were approved as circulated.

VARIANCES:

BZA-V-12-26

APPLICANT: James Altmeyer **OWNER:** James Altmeyer

PREMISES: Property located on the South side of Mt. Gilead Road approximately .7 miles west of the intersection formed by Pelzer Road (W50) and Mt. Gilead Road (S150). Boon Twp. (Complete legal on file) *1211 Mt. Gilead Road*

NATURE OF CASE: Applicant request a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a manufactured home to be located on property with an existing mobile home to be removed in "A" Agriculture zoning district.

James Altmeyer was present.

Chairman Dayvolt called for a staff report.

Sherri Rector stated we do have all return receipts from certified mail except for one, Dan Gibson, we have the white pay receipt and it was mailed in adequate time. Mrs. Rector stated the request is for a Variance to allow an Improvement Location Permit to be issued for a manufactured home to be located on property with an existing mobile home to be removed in "A" Agriculture zoning district. Mrs. Rector said the existing land use is residential. Mrs. Rector added the surrounding zoning and land use is portions of the property to the N and NE are zoned "CON" and the remaining surrounding area is zoned "A" with residences. Mrs. Rector stated there is no flood plain on the property and the entrance is off Mt.

Gilead Road. Mrs. Rector said a Conditional Use was approved on June 23, 1993 to allow the existing mobile home. Mrs. Rector added the applicant states that *a permit is required to place a new home on this lot to secure a loan and order the new home. I currently live in a home on the lot and will be while the new home is being built. Existing home will be removed after new home is built.* Mrs. Rector added we have a letter from the Health Department that states they have sufficient septic for the new home. Mrs. Rector said that if this is approved a time period is usually given from the time the certificate of occupancy is given to have the existing mobile home removed. Mrs. Rector added that the application is in order.

Chairman Dayvolt asked the applicant if he had anything to add.

Mr. Altmeyer said no.

Chairman Dayvolt asked if the Board had any questions.

Attorney Doll asked if he was correct that this was slightly more than 5 acres.

Mr. Altmeyer said yes.

Attorney Doll said then under the rural lot size this would be big enough to have 2 separate lots and have 2 septic systems if the portability tests were fine. Attorney Doll asked if the applicant owned any other land.

Mr. Altmeyer said no.

Mrs. Rector asked Mr. Altmeyer how long he thought it would take to get the mobile removed after he gets into the new home.

Mr. Altmeyer said he would like to have 6 months given the time of year and not knowing how long it would take to have the new home delivered and set up. Mr. Altmeyer said he would need however much time it takes them and then he can get started on removal.

Mr. Winge added that the removal will start after that, the time period does not start until after that.

Chairman Dayvolt asked if Mr. Altmeyer would have to order the new home.

Mr. Altmeyer said yes.

Chairman Dayvolt asked if before he could receive financing he'd have to have the home on the lot, is that what he had heard stated.

Mr. Altmeyer explained that he has gone through the financing and is approved, but it is all waiting for this permit to start the loan process and for the home to be ordered and built by the manufacturer he needs the permit.

Chairman Dayvolt asked Mr. Altmeyer to explain to the Board what kind of home he is purchasing.

Mr. Altmeyer stated that it is a double wide manufactured home that will be set on concrete footers with a block foundation.

Chairman Dayvolt asked then would it have a permanent foundation under it.

Mr. Altmeyer said yes.

Mrs. Writsel asked how old is the existing mobile that he will be staying in for a while.

Mr. Altmeyer said that is was built sometime in the 70's.

Mr. Winge stated that it has some porches that he will need time to remove.

Discussion ensued about the age of the mobile home and legalities of selling it in Warrick County.

Attorney Doll said then so assuming the new home arrives and it's finished and he moves in, how long then would he need to remove the mobile home.

Mr. Altmeyer said 60 days.

Chairman Dayvolt asked what time frame he plans on ordering the new home.

Mr. Altmeyer said tomorrow.

Chairman Dayvolt said that everything should move fairly quickly, the only hold up would be weather.

Mr. Altmeyer said yes, when he talked to the mobile home manufacture they estimated a 30 day building time given the holiday season coming up and the plant shut down. Mr. Altmeyer said they told him a 30 day delivery time.

Further discussion ensued about the number of days being allowed for Mr. Altmeyer to remove the existing mobile home once the new home is done.

Chairman Dayvolt asked if there were any questions by the Board.

Ascertaining there were no other comments from the Board and being no remonstrators present the Chairman called for a motion.

I, Mike Winge, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is this is the only property that is owned by the applicant so he has

no other place to live, and this particular site is large enough to be equal to or considered 2 separate lots.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easements and facilities in place.
 - e) Subject to the existing mobile home being removed within 90 days from the issuance of the certificate of occupancy.

Motion was seconded by Judy Writsel and unanimously carried.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS: None

Being no other business the meeting adjourned at 6:17 p.m. Motion made by Mike Winge, seconded by Tina Baxter and unanimously carried.

Terry Dayvolt, Acting Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held November 26, 2012.

Sherri Rector, Executive Director

